

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ALEXANDER RILEY,

Plaintiff,

v.

POLICE OFFICER JOSEPH DESANTIS,
DETECTIVE WILMAR MEJIA,
UNDERCOVER OFFICER 27598 and
SERGEANT ROBERT FERNANDEZ,

Defendants.

ORDER

10-CV-2513 (MKB)

MARGO K. BRODIE, United States District Judge:

Plaintiff Alexander Riley brings this action against Defendants Police Officer Joseph DeSantis, Detective Wilmar Mejia, Undercover Officer 27598 and Sergeant Robert Fernandez, alleging violations of the Fourth and Sixth Amendments to the United States Constitution pursuant to 42 U.S.C. § 1983. On August 24, 2016, the Court adjourned the third day of jury trial to hear argument from the parties regarding the delayed disclosure of evidence critical to the Court's February 10, 2015 decision (the "February 2015 Order"). (Order dated Feb. 10, 2015, Docket Entry No. 62). Having heard arguments from the parties as to the facts surrounding the delayed disclosure, the Court rules as follows:

1. The Court will not provide the jury with an adverse inference instruction regarding Plaintiff's credibility. As discussed on the record, the February 2015 Order is undermined by information contained in the delayed disclosure. Consistent with this ruling, the Court will provide the parties with an updated draft of the jury instructions.

2. The Court will strike all questions (and related answers) to Plaintiff on cross-examination that refer to the Court's findings in the February 2015 Order.
3. Within ten days of the conclusion of the trial, Defendants must submit a letter brief explaining why the Court should not vacate the award of attorneys' fees and costs that were imposed against Plaintiff pursuant to the February 2015 Order.

In view of this Order, the parties shall appear tomorrow, August 25, 2016 at 10:00 AM for continued testimony in the trial. The parties should be prepared to present their summation arguments to the jury in the afternoon of August 25, 2016.

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: August 24, 2016
Brooklyn, New York